



General Assembly

**Substitute Bill No. 482**

February Session, 2008

\* SB00482INS\_\_031108\_\_ \*

**AN ACT CONCERNING HEALTH CARE CLAIMS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-816 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective January 1, 2009*):

3 The following are defined as unfair methods of competition and  
4 unfair and deceptive acts or practices in the business of insurance:

5 (1) Misrepresentations and false advertising of insurance policies.  
6 Making, issuing or circulating, or causing to be made, issued or  
7 circulated, any estimate, illustration, circular or statement, sales  
8 presentation, omission or comparison which: (a) Misrepresents the  
9 benefits, advantages, conditions or terms of any insurance policy; (b)  
10 misrepresents the dividends or share of the surplus to be received, on  
11 any insurance policy; (c) makes any false or misleading statements as  
12 to the dividends or share of surplus previously paid on any insurance  
13 policy; (d) is misleading or is a misrepresentation as to the financial  
14 condition of any person, or as to the legal reserve system upon which  
15 any life insurer operates; (e) uses any name or title of any insurance  
16 policy or class of insurance policies misrepresenting the true nature  
17 thereof; (f) is a misrepresentation, including, but not limited to, an  
18 intentional misquote of a premium rate, for the purpose of inducing or  
19 tending to induce to the purchase, lapse, forfeiture, exchange,  
20 conversion or surrender of any insurance policy; (g) is a

21 misrepresentation for the purpose of effecting a pledge or assignment  
22 of or effecting a loan against any insurance policy; or (h) misrepresents  
23 any insurance policy as being shares of stock.

24 (2) False information and advertising generally. Making, publishing,  
25 disseminating, circulating or placing before the public, or causing,  
26 directly or indirectly, to be made, published, disseminated, circulated  
27 or placed before the public, in a newspaper, magazine or other  
28 publication, or in the form of a notice, circular, pamphlet, letter or  
29 poster, or over any radio or television station, or in any other way, an  
30 advertisement, announcement or statement containing any assertion,  
31 representation or statement with respect to the business of insurance  
32 or with respect to any person in the conduct of his insurance business,  
33 which is untrue, deceptive or misleading.

34 (3) Defamation. Making, publishing, disseminating or circulating,  
35 directly or indirectly, or aiding, abetting or encouraging the making,  
36 publishing, disseminating or circulating of, any oral or written  
37 statement or any pamphlet, circular, article or literature which is false  
38 or maliciously critical of or derogatory to the financial condition of an  
39 insurer, and which is calculated to injure any person engaged in the  
40 business of insurance.

41 (4) Boycott, coercion and intimidation. Entering into any agreement  
42 to commit, or by any concerted action committing, any act of boycott,  
43 coercion or intimidation resulting in or tending to result in  
44 unreasonable restraint of, or monopoly in, the business of insurance.

45 (5) False financial statements. Filing with any supervisory or other  
46 public official, or making, publishing, disseminating, circulating or  
47 delivering to any person, or placing before the public, or causing,  
48 directly or indirectly, to be made, published, disseminated, circulated  
49 or delivered to any person, or placed before the public, any false  
50 statement of financial condition of an insurer with intent to deceive; or  
51 making any false entry in any book, report or statement of any insurer  
52 with intent to deceive any agent or examiner lawfully appointed to

53 examine into its condition or into any of its affairs, or any public  
54 official to whom such insurer is required by law to report, or who has  
55 authority by law to examine into its condition or into any of its affairs,  
56 or, with like intent, wilfully omitting to make a true entry of any  
57 material fact pertaining to the business of such insurer in any book,  
58 report or statement of such insurer.

59 (6) Unfair claim settlement practices. Committing or performing  
60 with such frequency as to indicate a general business practice any of  
61 the following: (a) Misrepresenting pertinent facts or insurance policy  
62 provisions relating to coverages at issue; (b) failing to acknowledge  
63 and act with reasonable promptness upon communications with  
64 respect to claims arising under insurance policies; (c) failing to adopt  
65 and implement reasonable standards for the prompt investigation of  
66 claims arising under insurance policies; (d) refusing to pay claims  
67 without conducting a reasonable investigation based upon all available  
68 information; (e) failing to affirm or deny coverage of claims within a  
69 reasonable time after proof of loss statements have been completed; (f)  
70 not attempting in good faith to effectuate prompt, fair and equitable  
71 settlements of claims in which liability has become reasonably clear;  
72 (g) compelling insureds to institute litigation to recover amounts due  
73 under an insurance policy by offering substantially less than the  
74 amounts ultimately recovered in actions brought by such insureds; (h)  
75 attempting to settle a claim for less than the amount to which a  
76 reasonable man would have believed he was entitled by reference to  
77 written or printed advertising material accompanying or made part of  
78 an application; (i) attempting to settle claims on the basis of an  
79 application which was altered without notice to, or knowledge or  
80 consent of the insured; (j) making claims payments to insureds or  
81 beneficiaries not accompanied by statements setting forth the coverage  
82 under which the payments are being made; (k) making known to  
83 insureds or claimants a policy of appealing from arbitration awards in  
84 favor of insureds or claimants for the purpose of compelling them to  
85 accept settlements or compromises less than the amount awarded in  
86 arbitration; (l) delaying the investigation or payment of claims by

87 requiring an insured, claimant, or the physician of either to submit a  
88 preliminary claim report and then requiring the subsequent  
89 submission of formal proof of loss forms, both of which submissions  
90 contain substantially the same information; (m) failing to promptly  
91 settle claims, where liability has become reasonably clear, under one  
92 portion of the insurance policy coverage in order to influence  
93 settlements under other portions of the insurance policy coverage; (n)  
94 failing to promptly provide a reasonable explanation of the basis in the  
95 insurance policy in relation to the facts or applicable law for denial of a  
96 claim or for the offer of a compromise settlement; (o) using as a basis  
97 for cash settlement with a first party automobile insurance claimant an  
98 amount which is less than the amount which the insurer would pay if  
99 repairs were made unless such amount is agreed to by the insured or  
100 provided for by the insurance policy.

101 (7) Failure to maintain complaint handling procedures. Failure of  
102 any person to maintain complete record of all the complaints which it  
103 has received since the date of its last examination. This record shall  
104 indicate the total number of complaints, their classification by line of  
105 insurance, the nature of each complaint, the disposition of these  
106 complaints, and the time it took to process each complaint. For  
107 purposes of this subsection "complaint" shall mean any written  
108 communication primarily expressing a grievance.

109 (8) Misrepresentation in insurance applications. Making false or  
110 fraudulent statements or representations on or relative to an  
111 application for an insurance policy for the purpose of obtaining a fee,  
112 commission, money or other benefit from any insurer, producer or  
113 individual.

114 (9) Any violation of any one of sections 38a-358, 38a-446, 38a-447,  
115 38a-488, 38a-825, 38a-826, 38a-828 and 38a-829. None of the following  
116 practices shall be considered discrimination within the meaning of  
117 section 38a-446 or 38a-488 or a rebate within the meaning of section  
118 38a-825: (a) Paying bonuses to policyholders or otherwise abating their  
119 premiums in whole or in part out of surplus accumulated from

120 nonparticipating insurance, provided any such bonuses or abatement  
121 of premiums shall be fair and equitable to policyholders and for the  
122 best interests of the company and its policyholders; (b) in the case of  
123 policies issued on the industrial debit plan, making allowance to  
124 policyholders who have continuously for a specified period made  
125 premium payments directly to an office of the insurer in an amount  
126 which fairly represents the saving in collection expense; (c)  
127 readjustment of the rate of premium for a group insurance policy  
128 based on loss or expense experience, or both, at the end of the first or  
129 any subsequent policy year, which may be made retroactive for such  
130 policy year.

131 (10) Notwithstanding any provision of any policy of insurance,  
132 certificate or service contract, whenever such insurance policy or  
133 certificate or service contract provides for reimbursement for any  
134 services which may be legally performed by any practitioner of the  
135 healing arts licensed to practice in this state, reimbursement under  
136 such insurance policy, certificate or service contract shall not be denied  
137 because of race, color or creed nor shall any insurer make or permit  
138 any unfair discrimination against particular individuals or persons so  
139 licensed.

140 (11) Favored agent or insurer: Coercion of debtors. (a) No person  
141 [may] shall (i) require, as a condition precedent to the lending of  
142 money or extension of credit, or any renewal thereof, that the person to  
143 whom such money or credit is extended or whose obligation the  
144 creditor is to acquire or finance, negotiate any policy or contract of  
145 insurance through a particular insurer or group of insurers or  
146 producer or group of producers; (ii) unreasonably disapprove the  
147 insurance policy provided by a borrower for the protection of the  
148 property securing the credit or lien; (iii) require directly or indirectly  
149 that any borrower, mortgagor, purchaser, insurer or producer pay a  
150 separate charge, in connection with the handling of any insurance  
151 policy required as security for a loan on real estate or pay a separate  
152 charge to substitute the insurance policy of one insurer for that of

153 another; or (iv) use or disclose information resulting from a  
154 requirement that a borrower, mortgagor or purchaser furnish  
155 insurance of any kind on real property being conveyed or used as  
156 collateral security to a loan, when such information is to the advantage  
157 of the mortgagee, vendor or lender, or is to the detriment of the  
158 borrower, mortgagor, purchaser, insurer or the producer complying  
159 with such a requirement. (b)(i) Subsection (a)(iii) does not include the  
160 interest which may be charged on premium loans or premium  
161 advancements in accordance with the security instrument. (ii) For  
162 purposes of subsection (a)(ii), such disapproval shall be deemed  
163 unreasonable if it is not based solely on reasonable standards  
164 uniformly applied, relating to the extent of coverage required and the  
165 financial soundness and the services of an insurer. Such standards  
166 shall not discriminate against any particular type of insurer, nor shall  
167 such standards call for the disapproval of an insurance policy because  
168 such policy contains coverage in addition to that required. (iii) The  
169 commissioner may investigate the affairs of any person to whom this  
170 subsection applies to determine whether such person has violated this  
171 subsection. If a violation of this subsection is found, the person in  
172 violation shall be subject to the same procedures and penalties as are  
173 applicable to other provisions of section 38a-815, subsections (b) and  
174 (e) of section 38a-817 and this section. (iv) For purposes of this section,  
175 "person" includes any individual, corporation, limited liability  
176 company, association, partnership or other legal entity.

177 (12) Refusing to insure, refusing to continue to insure or limiting the  
178 amount, extent or kind of coverage available to an individual or  
179 charging an individual a different rate for the same coverage because  
180 of physical disability or mental retardation, except where the refusal,  
181 limitation or rate differential is based on sound actuarial principles or  
182 is related to actual or reasonably anticipated experience.

183 (13) Refusing to insure, refusing to continue to insure or limiting the  
184 amount, extent or kind of coverage available to an individual or  
185 charging an individual a different rate for the same coverage solely

186 because of blindness or partial blindness. For purposes of this  
187 subdivision, "refusal to insure" includes the denial by an insurer of  
188 disability insurance coverage on the grounds that the policy defines  
189 "disability" as being presumed in the event that the insured is blind or  
190 partially blind, except that an insurer may exclude from coverage any  
191 disability, consisting solely of blindness or partial blindness, when  
192 such condition existed at the time the policy was issued. Any  
193 individual who is blind or partially blind shall be subject to the same  
194 standards of sound actuarial principles or actual or reasonably  
195 anticipated experience as are sighted persons with respect to all other  
196 conditions, including the underlying cause of the blindness or partial  
197 blindness.

198 (14) Refusing to insure, refusing to continue to insure or limiting the  
199 amount, extent or kind of coverage available to an individual or  
200 charging an individual a different rate for the same coverage because  
201 of exposure to diethylstilbestrol through the female parent.

202 (15) (A) Failure by an insurer, or any other entity responsible for  
203 providing payment to a health care provider pursuant to an insurance  
204 policy, to pay accident and health claims, including, but not limited to,  
205 claims for payment or reimbursement to health care providers, within  
206 the time periods set forth in subparagraph (B) of this subdivision,  
207 unless the Insurance Commissioner determines that a legitimate  
208 dispute exists as to coverage, liability or damages or that the claimant  
209 has fraudulently caused or contributed to the loss. Any insurer, or any  
210 other entity responsible for providing payment to a health care  
211 provider pursuant to an insurance policy, who fails to pay such a claim  
212 or request within the time periods set forth in subparagraph (B) of this  
213 subdivision shall pay the claimant or health care provider the amount  
214 of such claim plus interest at the rate of fifteen per cent per annum, in  
215 addition to any other penalties which may be imposed pursuant to  
216 sections 38a-11 of the 2008 supplement to the general statutes, 38a-25,  
217 38a-41 to 38a-53, inclusive, 38a-57 to 38a-60, inclusive, 38a-62 to 38a-64,  
218 inclusive, 38a-76, 38a-83, 38a-84, 38a-117 to 38a-124, inclusive, 38a-129

219 to 38a-140, inclusive, 38a-146 to 38a-155, inclusive, 38a-283, 38a-288 to  
220 38a-290, inclusive, 38a-319, 38a-320, 38a-459, 38a-464, 38a-815 to 38a-  
221 819, inclusive, 38a-824 to 38a-826, inclusive, and 38a-828 to 38a-830,  
222 inclusive. Whenever the interest due a claimant or health care provider  
223 pursuant to this section is less than one dollar, the insurer shall deposit  
224 such amount in a separate interest-bearing account in which all such  
225 amounts shall be deposited. At the end of each calendar year each such  
226 insurer shall donate such amount to The University of Connecticut  
227 Health Center.

228 (B) Each insurer, or other entity responsible for providing payment  
229 to a health care provider pursuant to an insurance policy subject to this  
230 section, shall pay claims not later than forty-five days after receipt by  
231 the insurer of the claimant's proof of loss form or the health care  
232 provider's request for payment filed in accordance with the insurer's  
233 practices or procedures, except that when there is a deficiency in the  
234 information needed for processing a claim, as determined in  
235 accordance with section 38a-477, the insurer shall (i) send written  
236 notice to the claimant or health care provider, as the case may be, of all  
237 alleged deficiencies in information needed for processing a claim not  
238 later than thirty days after the insurer receives a claim for payment or  
239 reimbursement under the contract, and (ii) pay claims for payment or  
240 reimbursement under the contract not later than thirty days after the  
241 insurer receives the information requested.

242 (C) As used in this subdivision, "health care provider" means a  
243 person licensed to provide health care services under chapter 368v,  
244 chapters 370 to 373, inclusive, 375 to 383c, inclusive, 384a to 384c,  
245 inclusive, or chapter 400j.

246 (16) Failure to pay, as part of any claim for a damaged motor vehicle  
247 under any automobile insurance policy where the vehicle has been  
248 declared to be a constructive total loss, an amount equal to the sum of  
249 (A) the settlement amount on such vehicle plus, whenever the insurer  
250 takes title to such vehicle, (B) an amount determined by multiplying  
251 such settlement amount by a percentage equivalent to the current sales

252 tax rate established in section 12-408. For purposes of this subdivision,  
253 "constructive total loss" means the cost to repair or salvage damaged  
254 property, or the cost to both repair and salvage such property, equals  
255 or exceeds the total value of the property at the time of the loss.

256 (17) Any violation of section 42-260, by an extended warranty  
257 provider subject to the provisions of said section, including, but not  
258 limited to: (A) Failure to include all statements required in subsections  
259 (c) and (f) of section 42-260 in an issued extended warranty; (B)  
260 offering an extended warranty without being (i) insured under an  
261 adequate extended warranty reimbursement insurance policy or (ii)  
262 able to demonstrate that reserves for claims contained in the provider's  
263 financial statements are not in excess of one-half the provider's audited  
264 net worth; (C) failure to submit a copy of an issued extended warranty  
265 form or a copy of such provider's extended warranty reimbursement  
266 policy form to the Insurance Commissioner.

267 (18) With respect to an insurance company, hospital service  
268 corporation, health care center or fraternal benefit society providing  
269 individual or group health insurance coverage of the types specified in  
270 subdivisions (1), (2), (4), (6), (10), (11) and (12) of section 38a-469,  
271 refusing to insure, refusing to continue to insure or limiting the  
272 amount, extent or kind of coverage available to an individual or  
273 charging an individual a different rate for the same coverage because  
274 such individual has been a victim of family violence.

275 (19) With respect to an insurance company, hospital service  
276 corporation, health care center or fraternal benefit society providing  
277 individual or group health insurance coverage of the types specified in  
278 subdivisions (1), (2), (3), (4), (6), (9), (10), (11) and (12) of section 38a-  
279 469, refusing to insure, refusing to continue to insure or limiting the  
280 amount, extent or kind of coverage available to an individual or  
281 charging an individual a different rate for the same coverage because  
282 of genetic information. Genetic information indicating a predisposition  
283 to a disease or condition shall not be deemed a preexisting condition in  
284 the absence of a diagnosis of such disease or condition that is based on

285 other medical information. An insurance company, hospital service  
 286 corporation, health care center or fraternal benefit society providing  
 287 individual health coverage of the types specified in subdivisions (1),  
 288 (2), (3), (4), (6), (9), (10), (11) and (12) of section 38a-469, shall not be  
 289 prohibited from refusing to insure or applying a preexisting condition  
 290 limitation, to the extent permitted by law, to an individual who has  
 291 been diagnosed with a disease or condition based on medical  
 292 information other than genetic information and has exhibited  
 293 symptoms of such disease or condition. For the purposes of this  
 294 subsection, "genetic information" means the information about genes,  
 295 gene products or inherited characteristics that may derive from an  
 296 individual or family member.

297 (20) Any violation of sections 38a-465 to 38a-465m, inclusive.

298 (21) With respect to a managed care organization, as defined in  
 299 section 38a-478, failing to establish a confidentiality procedure for  
 300 medical record information, as required by section 38a-999.

301 (22) Any violation of section 38a-478m.

302 (23) With respect to an insurance company, hospital service  
 303 corporation, health care center or fraternal benefit society providing  
 304 individual or group health insurance coverage of the types specified in  
 305 section 38a-469, offering or providing any incentive, financial or  
 306 otherwise, to any person for denying enrollees' health care claims or  
 307 based on the number of denials such person makes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2009	38a-816

**INS**      *Joint Favorable Subst.*